

RESTRICTIVE COVENANTS FOR THE DEED

RESERVATION

RESERVING UNTO THE GRANTOR, and its and their respective officials, agents, employees, contractors, and subcontractors, the right of access to the Property (including the right of access to, and use of, utilities at reasonable cost to the Grantor). It is the intent of the Grantor that this reserved right of access be extended to the United States Air Force ("Air Force"), the United States Environmental Protection Agency (EPA) and the State of New York (the "State"), and its and their respective officials, agents, employees, contractors, and subcontractors. This right of access is for the following purposes, either on the Property or on adjoining lands, and for such other purposes consistent with the remediation of the petroleum spill sites:

1. To conduct investigations and surveys, including, where necessary, drilling, soil and water sampling, testpitting, testing soil borings, and other activities related to the remediation of the petroleum spill sites.
2. To inspect field activities of the Air Force and its contractors and subcontractors in implementing the remediation of the petroleum spill sites.
3. To conduct any test or survey required by the EPA or the State relating to the implementation of the remediation of the petroleum spill sites, or environmental conditions on the Property, or to verify any data submitted to the EPA or the State by the Air Force relating to such conditions.
4. To conduct, operate, maintain, or undertake any other response, corrective, or remedial action as required or necessary under the remediation of the petroleum spill sites, but not limited to, the installation of monitoring wells, pumping wells, and treatment facilities.
5. To monitor any environmental restrictive covenants in this Deed and the effectiveness of any other land use or institutional control established by the Air Force on the Property, either by itself, by its contractor, by any public entity, including the State, or by a private entity registered in the State to monitor environmental covenants.

ENVIRONMENTAL RESTRICTIVE COVENANTS

A. Petroleum Contaminants. Portions of the soil and groundwater remaining on the Property, i.e. New York State Department of Environmental Conservation ("NYSDEC") Spill Nr: 0009824, at sites of the former Aboveground Storage Tank (AST)-653, AST-655 and AST 657, remain contaminated by various levels of petroleum compounds. In September of 1995,

petroleum contamination (NYSDEC Spill # 9507363) from an adjacent privately owned fuel storage facility was identified as having migrated on the Parcel F9B and subsequently to the Parcel F14 property. It is anticipated that the biosparging systems present on parcel F14 will remediate this contamination in conjunction with the target Parcel F14 petroleum spills referenced. Also petroleum contamination (NYSDEC Spill # 9810949) that originated from UST-654 on adjacent Parcel F9B is being remediated via the NYSDEC Spill #0009824 located on Parcel F14.

1. The Grantee covenants and agrees not to conduct, or allow others to conduct, any type of excavating, digging, drilling, utilization of groundwater, or other ground disturbing at the open petroleum spill sites listed above and located on the Property as shown on the attached Map.

2. The Grantee covenants and agrees that it will not use, or allow others to use, the Property for residential purposes (including mobile or modular homes), hospitals for human care, public or private schools for persons under 18 years of age, nursery schools, or day care centers for children.

3. The Grantee covenants and agrees for itself and any of its agents, representatives, contractors, or lessees that it will not construct any well on the Property or extract/pump groundwater from beneath the Property for any purpose other than monitoring or remediation.

4. The Grantee covenants and agrees that it will not conduct, or allow others to conduct, any activities that would cause disturbance of, or limit access to, any wells, equipment or treatment or monitoring systems associated with the remediation activities at NYSDEC Spill # 009824 remediation site.

RELATED COVENANTS

Release of Environmental Restrictive Covenants.

1. The Grantee may request from the Air Force a modification or release of one or more of the environmental restrictive covenants in whole or in part in this section, subject to the notification and concurrence or approval of the NYSDEC. In the event the request of the Grantee for modification or release is approved by the Air Force and the NYSDEC., the USAF agrees to modify or release the covenant (the "Covenant Release") giving rise to such environmental restrictive covenant in whole or in part. The Grantee understands and agrees that all costs associated with the Covenant Release shall be the sole responsibility of the Grantee, without any cost whatsoever to the Air Force. The Air Force shall deliver the Covenant Release to the Grantee in recordable form. The execution of the Covenant Release by the Air Force shall modify or release the environmental restrictive covenant with respect to the property in the Covenant Release.

2. In the event that the environmental restrictive covenants contained in this section are no longer necessary, the Air Force will record the appropriate document modifying or removing such covenants.

OTHER COVENANTS AND NOTICES

A. Asbestos-Containing Materials (ACM). The Grantee is warned that the Property may contain current and former improvements, such as buildings, facilities, equipment, and pipelines, above and below the ground, that may contain ACM. The Grantee covenants and agrees that in its use and occupancy of the Property, it will comply with all applicable Federal, State, and local laws relating to asbestos. The Grantee is cautioned to use due care during property development activities that may uncover pipelines or other buried ACM. The Grantee covenants and agrees that it will notify the Air Force promptly of any potentially friable ACM that constitutes a release (or potential release) under the federal Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§ 9601 et seq.). The Grantor's responsibility under this Deed for friable ACM is limited to friable ACM in demolition debris associated with past Air Force activities and is limited to the actions, if any, to be taken in accordance with the covenant contained in this paragraph. The Grantee is warned that the Grantor will not be responsible for removing or responding to ACM in or on utility pipelines. The Grantee acknowledges that the Grantor assumes no liability for property damages or damages for personal injury, illness, disability, or death to the Grantee, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the Property, whether the Grantee has properly warned, or failed to properly warn, the persons injured.

B. General Lead-Based Paint and Lead-Based Paint-Containing Materials and Debris (collectively "LBP").

1. Lead-based paint was commonly used prior to 1978 and may be located on the Property. The Grantee is advised to exercise caution during any use of the Property that may result in exposure to LBP.

2. The Grantee covenants and agrees that in its use and occupancy of the Property, the Grantee is solely responsible for managing LBP, including LBP in soils, in accordance with all applicable Federal, State, and local laws and regulations. The Grantee acknowledges that the Grantor assumes no liability for property damages or damages for personal injury, illness, disability, or death to the Grantee, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, contact, disposition, or other activity involving LBP on the Property, whether the Grantee has properly warned, or failed to properly warn, the persons injured. The Grantee further agrees to notify the Air Force promptly of any discovery of LBP in soils that appears to be the result of Air Force activities and that is found at concentrations that may require remediation. The USAF hereby reserves the right, in its sole discretion, to undertake an investigation and conduct any remedial action that it determines is necessary.

C. Unexploded Ordnance. The Grantee is notified that there were eleven (11) former munitions related sites at former Griffiss AFB. None of the eleven (11) munitions related sites were identified on the Property. While not likely, it is possible that ordnance or ordnance-related

materials, not previously identified in the Archives Search Report or investigations, may be present on the Property. The Grantee is notified of the possible presence of ordnance on the Property. The Grantee covenants to exercise caution during performance of ground-disturbing activities on the Property to identify ordnance or ordnance-related material. Upon discovery of any ordnance or ordnance-related materials, the Grantee agrees to cease work immediately and notify the Air Force and the local Police.

D. Non-Discrimination. The Grantee covenants not to discriminate on the basis of race, color, religion, national origin, sex, age, or handicap in the use, occupancy, sale, or lease of the Property, or in its employment practices conducted thereon. This covenant shall not apply, however, to the lease or rental of a room or rooms within a family dwelling unit, nor shall it apply with respect to religion if the Property is on premises used primarily for religious purposes. The United States of America shall be deemed a beneficiary of this covenant without regard to whether it remains the owner of any land or interest therein in the locality of the Property.